

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

After entry of the foregoing amendment, Claims 1-6 and 8 remain pending in the present application. Claim 7 has been canceled without prejudice or disclaimer as this subject matter is embraced by amended Claim 8. Claims 1-6 and 8 are amended to address cosmetic matters of form. No new matter has been added.

By way of summary, the Official Action presents the following issues: the Information Disclosure Statement of May 16, 2006 has not been considered and is identified as improperly filed; Claims 1-8 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite; and Claims 7-8 stand rejected under 35 U.S.C. § 101.

INFORMATION DISCLOSURE STATEMENT

The Official Action has indicated the IDS, filed May 16, 2006, is not in compliance with 37 C.F.R. § 1.97 and § 1.98. In this regard, Applicants respectfully direct the Examiner's attention to MPEP § 609, which states:

Where the information listed is not in the English language, but was cited in a search report or other action by foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report.¹

Applicants note that a corresponding search report was filed along with the IDS of May 16, 2006 indicating the relevance of the listed reference as either "X" "Y" or "A."

¹ MPEP § 609, page 600-129.

Therefore, Applicants have complied with their duty of disclosure under 37 C.F.R. 1.98 and MPEP § 609². Accordingly, Applicants respectfully submit that the references cited in the IDS of May 16, 2006 are required to be considered and request indication of such in the next communication.

REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

With regard to the rejection of Claims 1-8 as outlined in paragraphs 2-3 of the Official Action, Applicants have amended the claims to address these issues. Namely, the language “to be stored” has been deleted from the preamble of the claims and the language “assumed” has been clarified.

Accordingly, Applicants respectfully request that the rejection of Claims 1-8 under 35 U.S.C. § 112 be withdrawn.

REJECTION UNDER 35 U.S.C. § 101

With regard to the rejection of Claims 7-8 under 35 U.S.C. § 101 as outlined at paragraph 5 of the Official Action, Applicants have canceled Claim 7 and have amended Claim 8 to place Claim 8 in a proper computer readable medium format.

Accordingly, Applicants respectfully request that the rejection of Claim 8 under 35 U.S.C. § 101 be withdrawn.

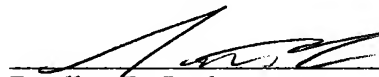
² Furthermore, it is believed that the USPTO provides translation services for Examiners if the Examiner believes that a certain reference may be pertinent and not adequately described in the statement of relevance. Applicants encourage the Examiner to use these translation services consistent with examination guidelines.

CONCLUSION

Consequently, in view of the foregoing amendment and remarks, the present application is believed to be in formal condition for allowance and such action is respectfully requested at an early date.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Scott A. McKeown
Registration No. 42,866